IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

T.C.A.No.15 of 2015

The Commissioner of Income Tax
Chennai. .. Appellant

Vs.

M/s.VJG Real Estates Pvt. Ltd.
No.21, Second Main Road
Gandhi Nagar, Adyar
Chennai - 600 040. .. Respondent

Prayer: Appeal filed under Section 260A of the Income Tax Act, 1961.

For the Appellant : Mr.J.Narayanasamy
Senior Standing Counsel

For the Respondent : Mr.A.S.Sriram

JUDGMENT

(Order of the Court was made by R.SURESH KUMAR, J.)

Though this case was argued at length by the learned counsel appearing for the parties, after gone through the judgment of the Division Bench of this Court in the case of ***Principal Commissioner of Income Tax vs. M/s.Ennore Cargo Container Terminal Pvt. Ltd.***[1], we are of the view that the issues

1 *T.C.A.Nos.105 and 106 of 2017; dated 27.03.2017.*

and the substantial questions of law raised in this appeal have already been answered in the said Division Bench Judgment.

2. The facts are the same, or similar, and ultimately, the Division Bench in the said judgment has held as follows:

> *"4.3. As indicated above, there is no dispute that the assessee did receive capital advance from Indev Logistics Pvt. Ltd. There is also no dispute that there are common shareholders both in the assessee-company and Indev Logistics Pvt. Ltd. Therefore, quite correctly, as noted by the Tribunal, though, the advance received by the assessee company may have been for the benefit of the aforementioned registered shareholders, it could only be assessed in the hands of those registered shareholders and not in the hands of the assessee-company.*
>
> *...*
>
> *5.1. In our view, the question of law considered by the Supreme Court in the case of Gopal and Sons (supra) was different from the issue which arises in the present matter. The question of law which the Supreme Court was called upon to consider was whether loans and advances received by a HUF could be deemed as a dividend within the meaning of Section 2(22)(e) of the Act. The assessee in that case was the HUF*

> *and the payment in question was made to the HUF. The shares were held by the Karta of the HUF. It is in this context that the Supreme Court came to the conclusion that HUF was the beneficial shareholder."*

3. Since the similar facts have already been answered by the said Division Bench, we are in respectful agreement and are bound to follow the same. Accordingly, the substantial questions of law arising in this appeal are answered in favour of the assessee and against the Revenue. Resultantly, the appeal fails and stands dismissed accordingly. There shall be no order as to costs.

(R.S.K., J.) (C.S.N, J)
27.08.2024

Neutral Citation:Yes/No

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R. SURESH KUMAR, J.
AND
C. SARAVANAN, J.

(drm)

T.C.A.No.15 of 2015

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